



DEPARTMENT OF TRANSPORTATION

MATERIALS TRANSPORTATION BUREAU

WASHINGTON, D.C. 20590

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Title 49—Transportation

SUBTITLE B—OTHER REGULATIONS RELATING TO TRANSPORTATION

CHAPTER I—MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

[Docket No. HM-127; Amdt. No. 107.2]

PART 107—PROCEDURES

Domestic Agents for Non-Residents of the United States

The primary purpose of these amendments to the Materials Transportation Bureau's procedural regulations is to require non-residents of the United States who apply for exemptions from the hazardous materials transportation regulations to designate resident agents in the United States upon whom service of process may be made. Applications filed by non-residents after the effective date of these amendments will have to include a designation of the applicant's agent in the United States.

In addition, the standard conditions applicable to all exemptions are being amended to make it clear that the exemption number notation required to be on shipping papers need not be followed immediately by the entries required by CFR 173.427. It is sufficient that the exemption number notation is made in such a manner as to be clearly identified with the other required entries for the item concerned.

Since these amendments relate solely to Bureau procedures and practices, notice and public procedure thereon is unnecessary.

In consideration of the foregoing, 49 CFR Part 107 is amended as follows:

1. Subpart A is amended by adding a new § 107.7 immediately following § 107.5 to read as follows:

§ 107.7 Service of process on non-residents of the United States.

(a) *Designation of agent for service.* When a person who is not a resident of the United States is required by this subchapter or Subchapter C of this chapter to designate a permanent resident of the United States as his agent upon whom service of process may be made for him and on his behalf, the agent may be an individual, a firm, or a domestic corporation. Any number of principals may

designate the same person as agent. A designation is binding on a principal even if the designation is not in compliance with all the requirements of this section, until rejected by the OHMO. A designated agent may not assign performance of his functions under the designation to another person.

(b) *Form and contents of designation.* The designation shall—

(1) Be in writing and dated;
(2) Be made in the legal form required to make it valid and binding on the principal under the laws, corporate by-laws, or other requirements governing the making of the designation by the principal at the place and time where it is made and the person or persons signing the designation shall certify that it is so made;

(3) State the full legal name, principal name of business and mailing address of the principal;

(4) Provide that it remains in effect until withdrawn or replaced by the principal;

(5) State the legal name and mailing address of the agent; and

(6) Bear a declaration of acceptance duly signed by the designated agent.

(c) *Method of service.* Service of any process, notice, order, decision, or requirement of the OHMO or MTB may be made by registered or certified mail addressed to the agent with return receipt requested or in any other manner authorized by law. If service cannot be effected because the agent has died (or, if a firm or a corporation ceases to exist) or moved, or otherwise does not receive correctly addressed mail, service may be made by publication in the FEDERAL REGISTER.

2. At the end of § 107.103(b)(10), the period is deleted and "; and" is inserted in place thereof; a new paragraph (b)(11) is added to read as follows:

§ 107.103 Application for exemption.

(b)
(11) If the applicant is not a resident of the United States, include a designation of a permanent resident of the United States as his agent for service of process in accordance with § 107.7.

3. In § 107.111(b), the word "and" at the end of paragraph (b)(2) is deleted; the period at the end of paragraph (b)(3) is deleted and "; and" is inserted in place thereof; a new paragraph (b)(4) is added to read as follows:

§ 107.111 Party to an exemption.

(b)
(4) If the applicant is not a resident of the United States, include a designation of a permanent resident of the United States as his agent for service of process in accordance with § 107.7.

§ 107.113 [Amended]

4. In § 107.113(a), the reference to "§ 107.103(b)(2) through (10)" is amended to read "§ 107.103(b)(2) through (11)".

Appendix B [Amended]

5. Appendix B to Subpart B is amended by revising clause (2) in the paragraph entitled "PACKAGES, CONTAINERS, SHIPMENTS" to read as follows:

PACKAGES, CONTAINERS, SHIPMENTS

(2) Each shipping paper issued in connection with a shipment made under an exemption must, in association with the entries required by 49 CFR 173.427, bear the notation "DOT-E" followed by the number assigned.

(18 U.S.C. 831-835; 49 U.S.C. 170(11); 49 U.S.C. 1421(c); 49 U.S.C. 1805; 49 C.F.R. 1.53 (e)-(h).)

Effective date: These amendments take effect March 15, 1976.

Issued in Washington, D.C. on February 12, 1976.

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[FR Doc 75-4720 Filed 2-18-76; 8:45 am]